

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on February 15, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: Rep. Joe Balyeat (R)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 548, 2/12/2001; HB 561,
2/12/2001
Executive Action: HB 548; HB 197; SB 44; HB 428;
HB 367

HEARING ON HB 548

Sponsor: REPRESENTATIVE JOEY JAYNE, HD 73, Arlee

Proponents: Evan Barrett, Montana Economic Developers
Association

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.2}

REP. FACEY presented the bill in Rep. Jayne's absence. He said we are trying to bring new corporations to the state and there is a mix-up between the effective tax rate and tax valuation, so sometimes our data is hard to explain to out-of-state corporations who want to move here. This bill would make that a little more clear.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 1.3}

Evan Barrett, Montana Economic Developers Association, said this bill accomplishes an important purpose of what we speak about in terms of our own taxes. We refer to taxable valuation percentages as if they were the real tax rate on business equipment or any other property taxes. The effective tax rate is the vehicle by which we compare ourselves with other states and is the amount of taxes you pay actually to dollars compared to the market value of the property. In our tax system, that requires one to go to the taxable valuation percentage and multiply it times the mills in each of the counties. It would be useful to economic development practitioners to have a formal official tax rate comparison that could be used. The Department of Revenue in its routine activities would take the average statewide millage and multiply it times the tax valuation percentage in each of the classes of property and come up with an effective tax rate table.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 5.5}

REP. ESP asked if this will take nominal effort on the part of the Department of Revenue. **Brad Simshaw, Department of Revenue**, said he thinks so. They currently do spreadsheets that show the effective tax rate.

REP. JACKSON asked if this report could be used by individual taxpayers. **Brad Simshaw** said it would not help on a county basis, but it would be a good guide to what average property tax rates are in the state.

REP. BALES asked how the valuation of Western Montana agricultural land versus production would be handled on a statewide reporting basis. **Brad Simshaw** said an effective rate on agricultural land would probably not be calculated on true market value but on what the assessed value is for taxing purposes.

REP. STORY asked if the calculation would be done by taking the tax rate times the statewide mills as mentioned by the proponents. **Brad Simshaw** said this would be an even easier calculation, but to do it on a property class is no better. **REP. STORY** asked if it was Mr. Barrett's suggestion to take the mill levy times the tax rate. **Evan Barrett** said yes in the classes of property this simple calculation can be made. For the more complex classes, one would have to yield to the logic of the Department.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 12.2}

REP. FACEY said this is to help the economic developers in the state to have something that is clear.

EXECUTIVE ACTION ON HB 548

{Tape : 1; Side : A; Approx. Time Counter : 13.3}

Motion: **REP. ESP** moved that **HB 548 DO PASS.**

Discussion: **REP. SOMERVILLE** said he thinks this will have an impact in the different counties. The counties should develop their own charts to sell their areas. A county with a lower tax rate would have a disadvantage to use a statewide tax rate. **REP. DALE** said there is value to an official statement that developers can refer to even if there is a difference.

Motion/Vote: **REP. ESP** moved that **HB 548 DO PASS.** **Motion carried 19-1 with Somerville voting no.**

HEARING ON HB 561

Sponsor: REPRESENTATIVE TRUDI SCHMIDT, HD 42, Great Falls

Proponents: Representative Kim Gillan

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 17.2}

REP. SCHMIDT said this bill eliminated the phase-out of the Class 8 business equipment property tax and provides a phase-in exemption based on market value of single ownership. That means small businesses will have a phase-out exemption on business equipment. It also eliminates reporting requirements for certain exempt business equipment. Last session our tax policy significantly favored a few big businesses instead of the bulk of Montana businesses, which are the small businesses who pay less than \$50,000 worth of business equipment.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 21.4}

Rep. Kim Gillan said this bill focuses on and provides our small businesses some tax relief. These dollars of tax savings will be invested in the local economy, salary increases, and donations to the community. This bill helps rural and urban Montana, as well as new and existing businesses. With this bill there will also be less paperwork. The decrease in business equipment tax from 6% should be stopped at 3%. At 3%, businesses are competitive with the surrounding states. Small businesses are the main providers and generators of new jobs in Montana.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 27.9}

REP. JACKSON asked what the business equipment tax in our surrounding states is. **REP. GILLAN** said Montana's effective tax rate is 1.3%. She does not have the numbers for the surrounding area, but that rate puts Montana on a par.

REP. SOMERVILLE asked if this is a constitutional issue by not treating everyone in a property tax class equally. **REP. GILLAN** said Greg Petesch indicates there are no constitutional problems.

The tax rate stays the same, and there are currently exemptions in other areas.

REP. STORY asked if there would be a problem if everyone in a class of property except for 5% of the owners was exempt. **REP. GILLAN** said no.

REP. BALES asked what single ownership is. **REP. GILLAN** said there are often franchises with a single owner but at multiple locations, and this language addresses this. **REP. BALES** asked if S-corporations, limited liability partnerships, and corporations are excluded from this tax break. **Jeff Martin** said it would not. When you talk about single ownership, you talk about the entity that owns it. So if it is an S-corporation or multiple owners in a limited liability company, the entity and not the individual owns the property. **REP. BALES** asked who it would exclude by saying single ownership. **Brad Simshaw** said there would not be a problem, because there is an individual who is responsible for the property tax liability. **REP. BALES** asked if the company is the only name listed on the property tax. **Brad Simshaw** said yes. The owner is identified. **Jeff Martin** said the intent is for administrative purposes, such as when one person owns a franchise that crosses several county borders.

REP. ESP asked if this proposal eliminates any effort to tie the tax reduction to any economic trigger. **REP. GILLAN** said yes. It would stop at 3%. **REP. ESP** asked if the breaks given to the small business owners would be tied to a trigger. **REP. GILLAN** said no. **REP. ESP** asked what percent of business equipment in the state is owned by the 89% that are small businesses. **REP. GILLAN** said she has some data from the Department of Revenue and will provide it to the committee. Included in this is a breakdown of those with agricultural implements and without agricultural implements.

REP. DEVLIN asked if each McDonalds franchise gets the exemption or if McDonalds gets one exemption across the state. **REP. GILLAN** said since taxes on equipment are based on physical location, each of the locations would be eligible for the exemption. **Jeff Martin** said each location in two different counties would be entitled to the exemption. **REP. DEVLIN** asked if multiple locations in one county would all be exempt. **Jeff Martin** said it would depend on the franchise ownership structure.

REP. ERICKSON asked if this bill gives a break to all businesses as the first \$50,000 will not be taxed. **REP. GILLAN** said this is correct. **REP. ERICKSON** asked what spending would be cut by having less money coming into state revenue with this bill. **REP.**

GILLAN said the business equipment tax needs to be stopped at 3%. This is an issue of fairness. As schools have reduced funding, small businesses are being asked to donate to supplement state funding. She does not have any recommendations of what to cut. Small businesses are the engine of our economy.

REP. ESP asked what the logic was in leaving an economic growth trigger out of the bill. **REP. GILLAN** said at 3% the effective tax rate for businesses is equivalent with the surrounding states. Businesses are paying 3% for business equipment, but homeowners are paying higher than 3%. **REP. ESP** asked why the trigger was not in the bill when there is an additional tax break on the first \$50,000. **REP. GILLAN** said there is a fairness issue that the small businesses do not benefit very much from the percentage reductions. The exemption probably has a better likelihood of actually triggering economic growth in the businesses with limited amounts of business equipment. There is some concern that the cost effectiveness of collecting the tax outweighs the actual dollars collected. **REP. ESP** said if there is not an economic trigger for this and there is stagnant economic activity, there could be less for education and all of the other state funded programs. He asked if they would be willing to put an economic trigger into the bill. **REP. GILLAN** said she would entertain any amendment. Given the fact that we have significantly reduced business equipment taxes, particularly for the larger companies, and there has been no commensurate increase in economic activity, that policy may not be working. Therefore the small businesses could still benefit from this bottom up exemption.

REP. STORY said if the tax rate of 3.5% mentioned for homeowners has a 30% home valuation exemption the tax rate would actually be 2.4%, so after multiplying the mills, homes have a lower effective tax rate than business equipment. He asked if the proponent agreed. **REP. GILLAN** said she needs a chance to look at the numbers. **REP. STORY** asked if there was going to be a reimbursement amendment. **REP. GILLAN** said yes. **REP. STORY** asked if the bonding language in the bill could be taken out because there was a bill already signed addressing this. **Jeff Martin** said there is a coordination instruction in the bill to void this section upon passage and approval of HB 23 and HB 24.

REP. ANDERSEN asked what the approximate savings would be for a business with business equipment of \$50,000. **REP. GILLAN** said \$642 for \$50,000 or less, \$321 for \$25,000 or less, and \$192 for \$15,000 or less. **REP. ANDERSEN** asked if a business with \$60,000 would be paying less tax than it would be worth to collect. **REP. GILLAN** said the 3% rate would be applied to \$10,000. By

offsetting some tax dollars in the early stages of growth, this will help them get to the \$60,000 point.

REP. BALLYEAT asked if even the exemption was changed from \$5000 to \$50,000 there will still be people who owe tax that costs more to collect than what they owe. **REP. GILLAN** said there might not be a way to cure this, but under this bill, since 89% of all owners have less than \$50,000 in equipment, there will at least be a bit more efficiency than currently. **REP. BALLYEAT** said one of the good aspects of property tax is that it treats people the same and there is not the "class warfare" as with income tax. He asked if the exemption introduces this "class warfare" into the property tax system. **REP. GILLAN** said no. Common sense is being introduced. We need to see how we can provide some assistance to our small businesses.

REP. DALE asked if the Independent Business Association and Montana Taxpayers Association have been asked about their thoughts on this bill. **REP. GILLAN** said she spoke with Riley Johnson from NFIB and Mary Whittinghill with Montana Taxpayers Association. The fact they are not here today indicates they are neither opponents or proponents.

REP. ERICKSON asked if we go to a \$50,000 exemption and have 89% fewer taxpayers, how many fewer people will there be in the Department of Revenue. **Brad Simshaw** said he is unsure. It would be a great reduction in paperwork. This should be addressed in the fiscal note.

REP. SOMERVILLE asked why it was stopped at a \$50,000 exemption when there are farmers, ranchers, and construction companies with high equipment costs that we want to keep around because of high paying jobs and open space land issues. **REP. GILLAN** said those people are now at 3% instead of 6% and have achieved some savings. **EXHIBIT (tah38a01)** At a \$50,000 exemption for those with agricultural implements, that captures 80% of those folks. Looking at all of the owners at a \$50,000 exemption, we capture 89%. Between a combination of the 3% and bottom-up exemption, most of those folks will get a break.

REP. ANDERSEN said most farmers she is familiar with have large tractors and upwards of \$200,000 in business equipment, and she asked if possibly a lot of people who are contributing to the economy could be given a break by raising the exemption amount. **REP. GILLAN** said on the handout out of 23,630 owners who are subject to Class 8 property tax, 1582 have between \$100,000 and \$200,000 in business equipment. This bill tries to address the bulk of small businesses in Montana.

REP. WAITSCHIES asked if by having higher property tax you would actually increase economic development through equipment leases because people cannot afford to buy their own. **REP. GILLAN** said she is not suggesting we increase the property tax. She thought that leased property is not necessarily exempt from the property tax. **Jeff Martin** said whoever owns the property would pay the property tax.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 8.5}

REP. SCHMIDT said with this phase-out and phase-in they are showing concern for small businesses. By keeping the large business tax the same, it is competitive with other states. When small businesses are given tax relief, the tax savings stay in the community and has a direct impact on Montana's economy and main street businesses. Big businesses are critical to Montana, but they benefitted tremendously last session. It is time to help our small businesses survive.

EXECUTIVE ACTION ON HB 197

Motion: **REP. WADDILL** moved that **HB 197 DO PASS.**

Discussion: **REP. BALLYEAT** said this bill is a bad idea. Taxpayers can significantly reduce their taxes by manipulating the system by jumping back and forth between processes every other year. If you just go with the Federal form, there is no provision being made to deal with the constitutionally mandated differences between state tax and Federal tax. The Department of Revenue will have problems with collecting from the people who owe taxes after the Department has calculated those taxes under this bill. **REP. ERICKSON** said there is a \$42 million loss to revenue on the fiscal note. The sponsor has not brought an amendment to bring that number to zero.

Motion/Vote: **REP. ERICKSON** moved that **HB 197 BE TABLED.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 44

{Tape : 2; Side : A; Approx. Time Counter : 18.5}

Motion/Vote: **REP. DEVLIN** moved that **SB 44 BE CONCURRED IN.** Motion carried 16-4 with Bales, Ballyeat, Esp, and Jackson voting no. **REP. LASLOVICH** to carry bill on floor.

EXECUTIVE ACTION ON HB 428

{Tape : 2; Side : A; Approx. Time Counter : 21.7}

Motion: REP. FORRESTER moved that HB 428 DO PASS.

Discussion: REP. WAITSCHIES said he cannot vote for the bill. REP. ERICKSON said \$169 million is too much. REP. BALYEAT said he is going to vote for this because we might be surprised at how well our economy did and how well the revenue would be replaced. REP. ESP asked if the sponsor will help work on where to find the cuts in spending to fund this bill. REP. FORRESTER said if it is truly to help, he will help. If it is to embarrass him he will not do it. The reason this bill was introduced was not so much to help the bottom tax bracket so the top ones carry the tax, but because the economy in this state is in terrible shape. This is tax relief pure and simple, and he does not see how we can afford not to do something like this. REP. WADDILL said the Republicans should not vote against such a dramatic tax cut by a Democrat. REP. BALES asked what the fiscal impact was after the amendment. REP. FORRESTER said \$141 million for one fiscal year. REP. ANDERSEN said our agriculture community is in trouble, and this income tax bill will not help Montana's farmers and ranchers because they do not pay much income tax. If we want to help them, the exemption level of the business equipment tax should be raised. REP. JACKSON said this is a simple way to revise our income tax, but because of the impact on the budget right now, he will have to reluctantly vote against it. REP. SCHMIDT said she remembers hearing last session that by giving all of the tax cuts it will jump start the economy. She asked the sponsor if he thought this will jump start our economy. REP. FORRESTER said this does not give a tax cut just to the highest wage earners, it gives tax cuts across the board. He is unsure whether it is a jump start, but it is welcome news when someone gets their taxes back. Cumulatively this \$141 million will stay in the state. REP. SCHMIDT says she is willing to try anything and will vote for this bill. REP. BALYEAT said hard economic evidence shows cuts in income tax rates are far more beneficial for economic growth than cuts in property tax rates. Montana has the singular highest income tax rate in the country, so the necessity for income tax cuts compared to additional property tax cuts is even more striking. REP. BALES asked what the plan is for both of the income tax bills and if it should be decided in committee as to which one is the best, if any. REP. SOMERVILLE said we as a committee need to look at the bills before us and decide which ones have the best tax policy. REP. STORY said both of the committees spending money, Appropriations and Tax, have to be fiscally responsible. REP. DEVLIN said he likes tax cuts, but he

cannot support this one because of the fiscal impact. Property tax relief is something that needs to be addressed prior to income tax relief, and that came about in the last couple of sessions, and we are still dealing with that now. **REP. BALLYEAT** said the fiscal note on his income tax bill will be around \$5 million for the biennium, and it will be far easier to fit it into the budget. His bill phases in the tax cut. **REP.**

WAITSCHIES said he believes an income tax cut would help the economy, but the problem with tax cuts is they always lag in time. This cannot be done right now. **REP. FORRESTER** said he understands where people are coming from, but he campaigned on a bill like this and others, like the governor, have said they want a bill like this. **REP. ESP** said this is a logical idea, but it is not realistic given the current situation to make the cuts necessary to implement this. **REP. STORY** said he will not support the bill. An income tax cut of this magnitude has never come through the session. In the short-term, there will be significant property tax increases, because when this much money is taken out of the system, you will probably not be able to fund the reimbursement and base school funding programs, which will fall back on the property tax payers. **REP. ERICKSON** said the Federal government can cut income taxes and run a deficit, but we cannot. **REP. SOMERVILLE** said there is more to the income tax problem. We have the most complicated income tax system out of any state. We need to do a simplification with this bill to come up with the ideal solution. **REP. FORRESTER** said D.A. Davidson last year had 24 people leave their Great Falls office to work for D.A. Davidson in Wyoming and Washington, because they are high paid people and do not like the 11% tax rate. We continue to run surpluses but give no tax relief. **REP. BALLYEAT** said even if you do not believe the economic development aspects of income tax cuts, by having the singular highest income tax rate in the country, we just forced all of our highest end taxpayers to take up residency in other states. The fiscal impact of this bill is nowhere near what they are saying it is on paper. **REP. LASLOVICH** said the key is being responsible. This should be looked at in the future, as now is not the time.

Motion/Vote: **REP. LASLOVICH** moved that **HB 428 BE TABLED**. **Motion carried 11-9 with Balyeat, Branae, Dale, Esp, Forrester, Fuchs, Schmidt, Waddill, and Wanzenried voting no.**

EXECUTIVE ACTION ON HB 367

{Tape : 2; Side : B; Approx. Time Counter : 19.8}

Motion: **REP. SOMERVILLE** moved that **HB 367 DO PASS**.

Discussion: **Jeff Martin** said the amendments are not available due to computer problems. He discussed what the amendments would do. **REP. BALLYEAT** said this bill was developed to supposedly generate more revenue, but the fiscal note shows a loss to the general fund. **REP. STORY** said the cost on the fiscal note is the Department of Revenue thinking it will take a bunch of extra people to find and assess this property.

REP. SOMERVILLE withdrew his motion. Executive action will be taken when the amendments are available.

ADJOURNMENT

Adjournment: 10:40 A.M.

REP. BOB STORY, Chairman

RHONDA VAN METER, Secretary

BS/RV

EXHIBIT (tah38aad)